THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.25970 of 2005

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings dated 30.12.2004 as arbitrary and illegal and consequently direct the respondents to appoint the petitioner in any suitable post with all consequential benefits including wages from the date of declaring him as medical unfit, till date.

It appears, petitioner was appointed as Driver in APSRTC in 1992 and attached to Chittoor-I Depot. While that being so, when he was driving the Bus AP9Z-569, an accident was occurred, which resulted in amputation of his right leg at CMC Hospital, Vellore and therefore, he was declared as medically unfit to hold the post of Driver, with effect from 14.3.2001. Aggrieved by the same, petitioner raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 in I.D.No.144 of 2002 before the Industrial Tribunal-cum-Labour Court, Ananthapur praying to provide alternative employment. The Labour vide award dated 6.4.2004 directed the Respondents to consider case of the petitioner for any post other than Driver and Conductor to which he is otherwise eligible. Even thereafter also, the case of the petitioner was not considered and it was felt that he is unfit to hold the post of Shramik in the 10% quota. Finally, under the impugned order, his case was rejected stating that there is no possibility of arising the vacancy of Shramik in the region. Being aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner states that once the petitioner is declared as medically unfit, he must be provided with alternative employment as required under Section 47 of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Protection) Act, 1995. In this regard, the learned counsel relied upon the judgment in **A.P.STATE ROAD TRANSPORT CORPORATION, HYDERABAD v. M.V.RAMANA RAO**[1] and submitted that the petitioner is entitled for alternative employment.

Per contra, the learned counsel for respondents strenuously contended that the petitioner is unfit to hold any post in the Corporation, therefore, question of providing him employment does not arise.

Since the petitioner was declared as medically unfit, the respondents are bound to consider his case as per Section 47 of Persons with Disability Act. In this case, admittedly the case of the petitioner was rejected on the ground that the post of Shramik is not available. Once an employee is declared medically unfit, Section 4 of the Act takes care of the situation. Under Section 47 of the Act, either alternative employment must be provided or supernumerary post must be created to accommodate the petitioner. Under those circumstances, I am of the opinion that the impugned order passed by the respondents is arbitrary and illegal.

In view of the above, the writ petition is disposed of directing the respondents to consider the case of the petitioner for providing suitable alternative employment under Section 47 of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Protection) Act, 1995. However, petitioner is not entitled for any backwages and other benefits in view of his appointment as per Section 47 of the Act. No order as to costs.

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C.V.RAMULU,
J

Date: 3.12.2007
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.25970 of 2005

3.12.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.25970 of 2005

Date: 3rd December, 2007

Between:

D.Jayachandra Reddy

.. Petitioner

And

APSRTC, rep. by its Vice Chairman
and Managing Director, Musheerabad,
Hyderabad & another.

.. Respondents

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[1] 2003(6) ALD 322 (DB)